

February 16, 2010

TO: Tana Gann, Field Representative
Kathy Andruss, Classification Specialist
Washington Federation of State Employees (WFSE)

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Dung Le v. Department of Licensing (DOL)
Allocation Review Request ALLO-08-084

On November 23, 2009, I conducted a Director's review conference regarding the allocation of Dung Le's position. Besides you and Mr. Le, the following individuals were present for the Director's review conference: Judy Devoe, WFSE Counsel; Shelby Krismer Harada, Human Resources Consultant for DOL; Rebecca Burdick (Oberst), Office Support Supervisor 2 and Mr. Le's supervisor; Jennifer Dana, Manager of Vehicle Record Management; and Glenn Ball, Title and Registration Services Administrator at DOL.

Director's Determination

This position review was based on the work performed for the six-month period prior to March 24, 2008, the date Mr. Le submitted his Position Review Request (PRR) to DOL's Human Resources Office. As the Director's designee, I carefully considered all of the documentation in the file, including prior position descriptions, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of Mr. Le's assigned duties and responsibilities, I conclude his position is properly allocated to the Office Assistant 3 classification.

Background

Mr. Le's position is assigned to the SWAT Unit, which is responsible for Sellers, Wrecker Destroyed, Abandoned Vehicles and Tow Truck Operators, Insurance Destroyed and Dishonored Checks. The SWAT Unit is part of Vehicle Record Management within Title and Registration Services at DOL. In late January 2008, Ms. Krismer Harada provided Mr. Le information to assist him in completing a Position Review Request (PRR) (Exhibit B-11). On February 6, 2008, Ms. Krismer Harada had a Position Audit meeting with Mr. Le. Ms. Krismer Harada also had discussions with Mr. Le's management regarding the work

assigned to his position. On March 24, 2008, Mr. Le submitted his PRR to DOL's Human Resources Office, requesting reallocation of his Office Assistant 3 (OA 3) position to the Customer Service Specialist 2 (CSS 2) classification (Exhibit B-3). On October 20, 2008, Ms. Krismer Harada determined Mr. Le's position (#240-0123) was properly allocated as an OA 3. Specifically, Ms. Krismer Harada concluded the duties performed by Mr. Le were primarily clerical in nature and more than 10% of his total work assignments (Exhibit B-2).

On November 10, 2008, Mr. Le requested a Director's review of DOL's allocation determination.

Summary of Mr. Le's Perspective

Mr. Le asserts that all of the work he performs involves customer service. Mr. Le states that the Classification Questionnaire (CQ) for his position requested reallocation to the Customer Service 2 classification in 2004, which he contends was supported by management at that time. As a result, Mr. Le contends his position has been misclassified for several years. Mr. Le indicates that the primary duties and responsibilities assigned to his position did not change from the 2004 CQ. Mr. Le states that he receives, researches, and responds to daily phone, fax, and written inquiries regarding the Abandoned Vehicle Report (AVR) process. For example, Mr. Le indicates that he provides information regarding vehicle status to both internal and external customers, while maintaining confidentiality. Mr. Le further asserts that he independently resolves customer complaints and problems using specialized technical knowledge, skills and independent judgment.

Mr. Le emphasizes his knowledge regarding laws, rules, policies, and procedures relating to AVRs, as well as registered tow truck company requirements, to ensure an accurate interpretation is given to customers making inquiries about the AVR process. Mr. Le states that he creates and troubleshoots issues with user accounts for registered tow truck companies that access the Abandoned Vehicle Online Reporting system. In addition, Mr. Le asserts he is cross trained in all sections of the SWAT Unit. Mr. Le disagrees that his work is primarily clerical in nature. Instead, he asserts the primary focus of his position is to provide customer service, as indicated by the position descriptions for his position, signed by management. Therefore, Mr. Le believes the Customer Service Specialist 2 is the appropriate classification for his position.

Summary of DOL's Reasoning

DOL asserts the duties and responsibilities assigned to Mr. Le's position are primarily clerical in nature. DOL states that Mr. Le provides clerical and administrative support by processing forms relating to abandoned vehicles. While DOL recognizes Mr. Le has knowledge and experience processing AVRs due to the length of time he has held his position, the agency contends the majority of work is still clerical in nature. DOL agrees that the work assigned to Mr. Le's position has not changed significantly but understands that technology has changed and that the AVRs are now processed through an online system.

DOL also acknowledges that a side-by-side comparison of other Position Description Forms (PDFs) in the SWAT unit support his claim that the CSS 2 PDFs contain language similar to his PDF. However, DOL contends the meaning behind the words used to describe his position was found to be more clerical in nature. For example, after meeting with Mr. Le and his supervisor to determine how he researches and resolves inquiries, DOL asserts the assistance he provides to tow truck operators, law enforcement, and other external customers is more process oriented rather than customer service specialist work. DOL acknowledges that Mr. Le has cross trained with other positions in his unit but indicates the majority of work assigned to his position involves working with the AVRs. DOL stresses that Mr. Le is a very good employee and that he understands his job and performs his duties well. However, based on the overall duties and responsibilities assigned to Mr. Le's position, DOL believes the Office Assistant 3 classification is the appropriate fit.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Duties and Responsibilities

During the Director's review conference, the parties agreed that the work assigned to Mr. Le's position had not changed significantly in the past few years. Therefore, I reviewed the PRR in conjunction with the PDFs for Mr. Le's position (Exhibits A-4 (B-3); A-5 (B-10); B-7 (B-24) and B-27).

The Position Purpose on the PRR and the Job Summary on the PDF are identical and include the following:

This position is responsible for independently making decisions for resolving complaints, inquiries and problems from Registered Tow Truck Operators, general public, law enforcement, agents and subagents, state and other jurisdiction agencies related to the reporting of abandoned vehicles. Interprets abandoned vehicle state laws, rules, policies and procedures. Updating computer database and advising registered tow truck companies, law enforcement and customers of proper procedures and compliance with state laws. This position serves as lead on a weekly rotation schedule with duties that include serving as the unit point of contact, tracking assignments, delegating work, reporting unit status and attendance to supervisor, and scanning returned unclaimed titles into computer system.

A summary of the majority of work (60%) described on both the PRR and the PDF includes receiving, researching, and responding to daily inquiries regarding the abandoned vehicle reporting process and vehicle status. This involves independently resolving customer complaints or problems and contacting registered tow truck operators when clarification is needed or when discrepancies are noted on the abandoned vehicle documentation submitted to DOL. This also requires current knowledge of the laws, rules, policies, and procedures regarding abandoned vehicles and registered tow truck company requirements to ensure reports are accurate and customers are provided with the correct information. Mr. Le is tasked with evaluating all incoming abandoned vehicle reports for accuracy and completeness. He also verifies that all of the required documents submitted have been properly endorsed and/or notarized.

The remaining duties and responsibilities assigned to Mr. Le's position include creating registered tow truck company user accounts for access to the Abandoned Vehicle Online Reporting System (30%); serving as a lead worker on a weekly rotation schedule (6%); and acting as a backup for other areas of the SWAT Unit (2%).

During the Director's review conference, Mr. Le explained that he may receive AVRs via regular mail or fax but that most of the AVRs he receives from tow truck companies come in via email. Mr. Le stated that after receiving an AVR, he reviews the form to verify that all of the necessary information is complete. If the form is incomplete or if there is a discrepancy, he will send the form back to the tow truck company and ask them to correct and resubmit it. Mr. Le explained there is a 72 hour timeframe for processing or responding to AVRs.

Ms. Le's supervisor, Ms. Oberst, confirmed that AVR processing includes looking up information in the DOL online system, verifying information regarding a vehicle, and completing the proper paperwork with DOL's stamp that gives the Registered Tow Truck Operator permission to sell an abandoned vehicle at auction. Once a vehicle is sold, it is reported on an affidavit of sale, and Mr. Le will update the record in the system. Mr. Le also completes a daily report, which he provides to his supervisor on a weekly basis. In her audit review, Ms. Krismer Harada noted that Mr. Le assists tow truck companies and others with questions about AVRs but that clients can also use a self-service feature online. Ms. Krismer Harada also confirmed that Mr. Le processes AVRs received via fax or email and that he generates a daily report that he gives to his supervisor weekly (Exhibit B-11). In addition, Mr. Le's description of duties for the Abandoned Vehicle Desk include independently resolving and responding to clients/customers; verifying accuracy of information received and sent; interpreting agency related laws, policies and procedures; functioning as a liaison between clients and the agency (for example providing AVR forms to Communications); and processing reports generated by the online system (Exhibit A-13).

When considering all of the duties described, the majority of assignments involve reviewing the forms for accurate and complete information, verifying the information by using DOL's online website and other software programs to access vehicle records, and processing reports generated by the system. These duties are consistent with the job analysis for Mr. Le's position, which includes responding to inquiries regarding abandoned vehicle procedures; reviewing abandoned vehicle report documents for completeness, accuracy,

and compliance with rules; developing and maintaining paper and electronic filing systems; compiling statistical reports; and entering, reviewing, and retrieving data using computer programs (Exhibit B-25).

Class Specifications

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations.

The **Customer Service Class Series Concept** indicates the following:

Positions in this series provide assistance and problem resolution to agency clients/customers and are located in a designated customer service program. The intent of the series is to assist clients/customers in identifying agency processes and procedures, resolving client/customer problems related to agency programs and interpreting agency related laws, policies and procedures. Positions at all levels may be assigned lead or supervisory responsibility over lower level staff.

This series is not clerical in nature. Clerical support duties are incidental to the total work assignment (less than 10%). Clerical support, for the purposes of this series, includes tasks such as maintaining filing systems, maintaining logs, updating computer or manual data systems, office and telephone reception, completing office forms, compiling and completing recurrent reports, performing routine typing, copy work and preparing mailings.

This occupational category is considered a technical occupational category. Positions assigned to this occupational category have authority to accept, grant or deny agency services or may mediate between the business of the agency and the client (example: Attorney General's Consumer Protection Unit). Some positions may train and provide leadership to volunteers.

The **Customer Service Specialist 2** definition reads as follows:

Independently resolves complaints, inquiries and client/customer service problems while maintaining appropriate confidentiality. Provides agency interpretation and applies knowledge of laws, regulations, and processes in the resolution of inquiries, complaints and problems.

Although examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification. The CSS 2 typical work statements include the following:

- Acts as liaison between clients/customers and agency; gives presentations and offers assistance to other State and Federal agencies;

- Independently resolves client/customer problems by identifying the issues, determining procedural steps necessary to bring resolution, working with program staff to implement resolution, and communicating results to the client/customer;
- Creates and manages customer profiles and maintains integrity of the data and information while delivering specialized services.

In a broad context, Mr. Le provides customer service to the tow truck operators, law enforcement officers, and others who may call or email with questions about the AVR process. However, the majority of work assignments involve verification of forms for completeness and accuracy, sending the forms back when information is missing, entering and updating data in the system, looking up information on the agency website or using specific software programs, and generating abandoned vehicle reports. These duties are primarily clerical in nature. As indicated by the Customer Service class series concept, positions allocated to this series do not perform clerical support duties the majority of the time. Rather, clerical duties are incidental to the total work assignment (less than 10%).

I recognize there is a customer service component to the work Mr. Le performs. I also recognize that PDFs for CSS 2 positions in his work unit reference similar duties. However, the Personnel Resources Board (PRB) has previously held that “[w]hile a comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed by and the level of responsibility assigned to an incumbent, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position. Byrnes v. Dept’s of Personnel and Corrections, PRB No. R-ALLO-06-005 (2006), citing Flahaut v. Dept’s of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996).

While Mr. Le provides some level of customer service, the overall focus of his position primarily involves clerical support with the processing of AVRs. Therefore, the CSS 2 is not the best classification for the duties and responsibilities assigned to his position.

The **Office Assistant Class Series Concept** indicates that positions perform “a variety of clerical duties in support of office or unit operations.” The **Office Assistant 3** level is defined as follows:

Under general supervision, independently perform a variety of complex clerical projects and assignments such as preparing reports, preparing, reviewing, verifying and processing fiscal documents and/or financial records, composing correspondence such as transmittals and responses to frequent requests for information, establishing manual or electronic recordkeeping/filing systems and/or data base files, and responding to inquiries requiring substantive knowledge of office/departmental policies and procedures. Positions may perform specialized complex word processing

tasks in a word processing unit or complex rapid data inquiry and/or entry functions.

The distinguishing characteristics of an Office Assistant 3 include the following:

Assignments and projects are of a complex nature. Independent performance of complex clerical assignments requires substantive knowledge of a variety of regulations, rules, policies, procedures, processes, materials, or equipment. Problems are resolved by choosing from established procedures and/or devising work methods. Guidance is available for new or unusual situations. Deviation from established parameters requires approval. Work is periodically reviewed to verify compliance with established policies and procedures.

The bulk of Mr. Le's work assignments involve the processing of AVRs. Mr. Le may also assist customers by answering questions related to the process for reporting abandoned vehicles or by requesting clarification or additional information needed to process an AVR. Consistent with Mr. Le's position, OA 3s work under general supervision and independently perform a variety of complex clerical projects and assignments, including preparing reports and preparing, reviewing, verifying and processing documents, which in this case are the AVR forms and reports.

Further, as indicated by the OA 3 class specification, positions also resolve problems and respond to inquiries regarding rules, regulations, policies, department procedures, and department services, and they have substantive knowledge about departmental policies and procedures. Other OA 3 typical work examples that closely align with Mr. Le's duties and responsibilities include reviewing documents for completeness, accuracy, and compliance with rules, as well as determining or explaining the action needed to process abandoned vehicle records to be in compliance with related laws, rules, policies, and procedures.

It is clear Mr. Le is a highly-valued employee who provides excellent support to the SWAT Unit as a whole and the AVR process in particular. It is also clear Mr. Le has a tremendous amount of experience and knowledge about AVR processing and reporting. A position's allocation, however, is not based on an evaluation of performance or an individual's ability to perform higher-level work. Rather, it is based on the majority of work assigned to a position. In this case, the Office Assistant 3 classification best describes the overall scope of duties and responsibilities assigned to Mr. Le's position #0123.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the

Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 600 South Franklin, Olympia, Washington. The main telephone number is (360) 664-0388, and the fax number is (360) 753-0139.

If no further action is taken, the Director's determination becomes final.

c: Dung Le
 Shelby Krismer Harada, DOL
 Lisa Skriletz, DOP

Enclosure: List of Exhibits

DUNG LE v. DOL

ALLO-08-084

List of Exhibits

A. Dung Le Exhibits

1. Director's Review Request form November 12, 2008
2. DOL allocation determination, October 20, 2008
3. Position Description Form (position #0123), signed 4/25/2007
4. Position Review Request
5. Position Review Supplemental Form
6. Position Description Form (position #0123), signed 4/25/2007 (same as A-3)
7. Position Description Form for CSS 2 (#1595, not Mr. Le's position)
8. Customers Service Specialist 1 Class Specification
9. Customers Service Specialist 2 Class Specification
10. Office Assistant 1 Class Specification
11. Office Assistant 3 Class Specification
12. Organizational Chart
13. AVR Duty Comparison to CSS 2, created by Mr. Le

B. DOL Revised Response and Exhibits, dated January 27, 2009, with list of exhibits (see attached).

Note: On January 21, 2009, Tana Gann, WFSE, submitted copies of Mr. Le's exhibits to DOL. These exhibits are included in DOL's packet and included on the attached list.

Referenced Materials and Attachments

1. November 26, 2008, Department of Personnel, Director's Review Program, Allocation of Review Request, ALL-08-084, DUNG LE
2. October 20, 2008, Allocation Letter
3. March 24, 2008, Position Review Request Form for #70018681 (0123)
4. Position Description Form, CSS 2 1884
5. Position Description Form, CSS2 1595
6. Position Description Form, CSS2 0134
7. Position Description Form, OA3 0123
8. AVR Duty and Comparisons with CSS2
9. Guide to Completing the Dept. of Personnel Position Review Request
10. Position Review Supplemental Form, OA3 #0123
11. February 6, 2008, Audit of Position (OA3 0123)
12. Position Description Form, OA3 0371
13. Position Description Form, OA3 0351
14. Position Description Form, OA3 1034
15. Office Assistant 2 Job Specification
16. Office Assistant 3 Job Specification
17. Office Assistant Lead Job Specification
18. Customer Service Specialist 1 Job Specification
19. Customer Service Specialist 2 Job Specification
20. Organization Chart for Vehicle Record Management
21. Organization Chart for Title and Registration Services
22. Organization Chart for Vehicle Services Division
23. What is Title & Registration Services? Vehicle Record Management
24. May 7, 2007, Position Description Form, OA3 #0123

- 25. April 13, 2005, Job Analysis Form, OAS #0123
- 26. March 17, 2005, Letter to Mr. Dung Le
- 27. October 28, 2004 Classification Questionnaire, OAS #0123
- 28. May 7, 2007, Position Description Form, OA3 #0371
- 29. April 13, 2005 Job Analysis Form, OAS #0371
- 30. February 18, 2000 Classification Questionnaire, OAS #0371
- 31. May 7, 2007, Position Description Form, CSS2 #0134
- 32. April 13, 2005 Job Analysis Form, CSS2 #0134
- 33. October 28, 2004 Classification Questionnaire, CSS2 #0134
- 34. Qualifications Catalog: Customer Service & Clerical